

and small proportions of compounds of sodium, magnesium, chlorine, and sulphur. Each 100 cubic centimeters contained 0.53 grams of calcium lactate and 9.0 grams of lactic acid (which is the equivalent of approximately $\frac{1}{3}$ grain of calcium lactate and 5 grains of lactic acid per teaspoonful).

The article was alleged to be misbranded in that the name "Lacto-Cal" was false and misleading since it represented that the article contained a significant proportion of calcium; whereas it did not contain a significant proportion of calcium. It was alleged to be misbranded further in that the following statements appearing on the label, regarding its curative or therapeutic effects, were false and fraudulent: "Lacto-Cal A tonic for Nerves and Brain A General Builder Assists in Normalizing and Balancing the Gastric Juices * * * Dose: One to two teaspoonfuls in glass of cold or warm water before each meal. At bedtime take in hot water only." The article was alleged to be misbranded further in that its label bore a statement, "Read the printed circular," which circular contained false and fraudulent statements regarding its curative or therapeutic effectiveness in the treatment of aching limbs, painful joints, stinging nerves, acid in the blood, neuritis, sciatica, arthritis, lumbago, painful feet, rheumatism, intestinal putrefaction, debility of various organs, hyperacidity, indigestion, colitis, stomach catarrh, gastric ulcers, stomach gas, dropsy, colonitis, palpitation of the heart, and many other ailments; and its effectiveness to restore health, regulate the action of the digestive organs, to act as a tonic supplying to the blood, tissues, bones, organs, and all living cells what they need; and to assist in normalizing or balancing the gastric juices; its effectiveness as a nerve and brain food and bone and tissue builder; and its effectiveness to cause restful sleep.

On February 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28700. Misbranding of Omar Palmer's Famous Prescriptions. U. S. v. 35 Bottles of Omar Palmer's Prescription No. 53, et al. Default decree of condemnation and destruction. (F. & D. Nos. 40645 to 40651, incl. Sample Nos. 43335-C to 43339-C, incl., and 64528-C to 64534-C, incl.)

These seven products bore false and fraudulent statements and devices on the labeling regarding their therapeutic and curative effects. Certain of the products contained less alcohol than declared and two of them bore misleading statements regarding their composition.

On November 19, 1937, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 bottles and 1 can of Omar Palmer's Famous Prescriptions at Fort Smith, Ark., alleging that the articles had been shipped in interstate commerce on or about June 26 and July 3, 1937, from Hurley, Mo., by Oto Remedies, Inc., and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses showed that the articles consisted essentially as follows: Prescription No. 53, of extracts of plant drugs, including an alkaloidal drug and a small proportion of volatile acid such as acetic acid, alcohol (6.7 percent), and water; Prescription No. 47, of potassium acetate and a small proportion of extracts of plant drugs, including buchu and a saponin-bearing drug, alcohol (8.7 percent), and water; Prescription No. 38, of an arsenic compound, extracts of plant drugs including a laxative drug, salicylic acid (0.1 percent), alcohol (4.8 percent), and water; Prescription No. 61, of sodium salicylate (5 percent), extracts of plant drugs, alcohol (8.5 percent), and water colored with caramel and sweetened with saccharin; Prescription No. 94, of an arsenic compound, extracts of plant drugs including lobelia, alcohol, and water; Prescription No. 76, of small proportions of guaiacol, menthol, and extracts of plant drugs, alcohol (6.2 percent), sugar, and water; and Prescription Pile Ointment, of sulphur (8.8 percent), and iron sulphate (2.6 percent) incorporated in a petrolatum base.

Prescription No. 53 was alleged to be misbranded in that the following statement on the label falsely and fraudulently represented its therapeutic and curative effectiveness: "Indicated in gas in the stomach, sour stomach, heartburn, flatulency due to hyperacidity of stomach." It was alleged to be misbranded further in that its label stated that it contained 15 percent of alcohol, whereas it contained materially less alcohol.

Prescription No. 47 was alleged to be misbranded in that the designation "Omar Palmer's Famous Prescription No. 47" and the statement on the label, "This is a standard prescription as used and recommended by Omar Palmer

of Hurley, Mo. It has been tried and proven by years of use," constituted a device regarding the therapeutic and curative effectiveness of the article as a remedy for diseases of the kidney and the bladder, elimination of the poisons from the system, puffing under the eyes, pains across the back, getting up at nights, and all conditions caused from sluggish kidneys, having attained such meaning as a result of false and fraudulent statements appearing in a certain circular, entitled "A True and Interesting Story, etc.," which was furnished with the drugs to the consignee. It was alleged to be misbranded further in that its label stated that it contained 15 percent of alcohol, whereas it contained materially less alcohol.

Prescription No. 38 was alleged to be misbranded in that the designation "Omar Palmer's Famous Prescription No. 38" and the statement on the label, "This is a standard prescription as used and recommended by Omar Palmer of Hurley, Missouri. It has been tried and proven by years of use," constituted a device regarding the therapeutic and curative effectiveness of the article as a remedy for run-down condition, loss of appetite, sleepless nights, and nervousness, having attained such meaning as a result of false and fraudulent statements appearing in the aforesaid circular. It was alleged to be misbranded further in that its labels stated that it contained 15 percent of alcohol, whereas it contained materially less alcohol.

Prescription No. 61 was alleged to be misbranded in that the following statements on the label falsely and fraudulently represented its curative and therapeutic effectiveness: "For many forms of rheumatism. Directions: One teaspoonful in water before meals." It was alleged to be misbranded further in that its label stated that it contained 15 percent of alcohol, whereas it contained materially less alcohol. It was alleged to be misbranded further in that the statement on the label, "Contains infusion of phytalacca," was false and misleading when applied to an article containing in addition to extract of phytolacca, sodium salicylate, no mention of which was made on the label.

Prescription No. 94 was alleged to be misbranded in that the following statement on the label falsely and fraudulently represented its therapeutic and curative effectiveness: "For many forms of asthma." It was alleged to be misbranded further in that the statement on the label, "contains potassium arsenite," was false and misleading when applied to an article containing in addition to potassium arsenite, extracts of plant drugs, including an alkaloid-containing drug such as lobelia.

Prescription No. 76 was alleged to be misbranded in that the designation, "Omar Palmer's Famous Prescription No. 76" and the statement on the label, "This is a standard prescription as used and recommended by Omar Palmer of Hurley, Mo. It has been tried and proven by years of use," constituted a device regarding the therapeutic and curative effectiveness of the article as a remedy for coughs and colds, including stubborn coughs and colds and bronchial irritations, having attained such meaning as a result of false and fraudulent statements appearing in the aforesaid circular.

The Prescription Pile Ointment was alleged to be misbranded in that the designation "Prescription Pile Ointment" and the statement on the label, "This is a standard prescription as used and recommended by Omar Palmer of Hurley, Mo. It has been tried and proven by years of use," constituted a device which falsely and fraudulently represented the curative and therapeutic effectiveness of the article.

On January 24, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28701. Misbranding of mentholated kerchiefs. U. S. v. 3 Gross of Mentholated Kerchiefs. Default decree of condemnation and destruction. (F. & D. No. 41819. Sample No. 9638-D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On February 23, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3 gross of mentholated kerchiefs at Lancaster, Pa., alleging that the article had been shipped in interstate commerce on or about January 29, 1938, by the Sterilek Co., Inc., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.